

STATE of KANSAS



REAL ESTATE LEASING HANDBOOK

Revised October, 2006

REAL ESTATE LEASING HANDBOOK

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INTRODUCTION

The graphic features a blue rectangular background. At the top, a dark blue horizontal bar contains the text 'Department of Administration Vision' in white. Below this bar, the text 'The Department of Administration will lead the enterprise toward a shared services organization by modeling teamwork, cost-effective business practices, and quality customer service.' is written in a black, italicized serif font. A thin black line forms a partial frame around the top and left sides of the text area.

Department of Administration Vision

*The Department of Administration will lead the enterprise toward a **shared services** organization by modeling **teamwork**, **cost-effective business practices**, and **quality customer service**.*

The Shared Services concept allows customers to have direct input into the decision making process while, at the same time, accepting responsibility and accountability for implementing these shared decisions.

Several “shared services teams” have been established to review and evaluate, modify and improve, and implement changes to many Department of Administration (DofA) functions that affect state agency operations. One of the most prolific and effective shared services teams is the Leasing Shared Services Team (LSST). The LSST is comprised of personnel that are responsible for leasing activities from several state agencies.

In 2005, the LSST began the process of reviewing and evaluating all aspects of the leasing process including the leasing process flow, standard forms, the leasing handbook and training.

This revision of the Leasing Handbook is a result of that review. It is intended to be a helpful resource guide for experienced as well as novice participants of the State of Kansas leasing process.

The Leasing Handbook, all standard forms, training materials and other useful information are available on the Department of Administration website at:
<http://www.da.ks.gov/fm/dfm/services/leasing.htm>.

The Department of Administration and the Leasing Shared Services Team are excited to introduce and implement these improvements to the leasing process. Additionally, any and all suggestions and comments are encouraged and welcome. Comments may be sent via email to Leasing.Section@da.ks.gov.

NON-OCCUPIED LEASES

Key Concepts:

- The Agency is the primary negotiating party for all real estate leases in this category.
- **It is recommended the process for leases in this category commence at least three (3) to six (6) months prior to the lease expiration date (for current leases) or the anticipated lease beginning date (for new leases). However, this recommended lead time may vary depending upon the needs of the state agency, complexity of the lease, local market conditions, and/or other factors.**
- The Agency may request the services of the DofA, Division of Facilities Management (DFM) as a consultant or as a negotiator.
- Examples of non-occupied leases would be storage units, radio towers, boat slips, land/acreage leases, etc.

Procedure:

Submit the following to the DofA/DFM for approval:

1. DA-103 Agency Purchase Order
Located at: <http://www.da.ks.gov/ar/forms/da103.pdf> or <http://www.da.ks.gov/ar/forms/da103.xls>
2. Copy of the bid and a letter explaining the proposed lease.
3. In lieu of steps #1 and #2, an agency may instead submit a DA-47 Real Estate Lease Cover Sheet and a DA-46 Real Estate Lease Agreement.
Located at: http://www.da.ks.gov/fm/dfm/forms/DA-46_Real_Estate_Lease_Agreement.pdf
AND <http://www.da.ks.gov/ar/forms/da047.pdf> or <http://www.da.ks.gov/ar/forms/da047.xls>
4. The Americans with Disabilities Act (ADA) Checklist (if applicable).
Located at: <http://www.da.ks.gov/fm/leasing/ADAChecklist.pdf>
5. DFM-L-214 Occupancy Expense Worksheet (if applicable).
Located at: http://www.da.ks.gov/fm/dfm/forms/DFM-L-214_Occupancy_Expense_Worksheet.pdf

IMPROVEMENTS UNDER \$5,000

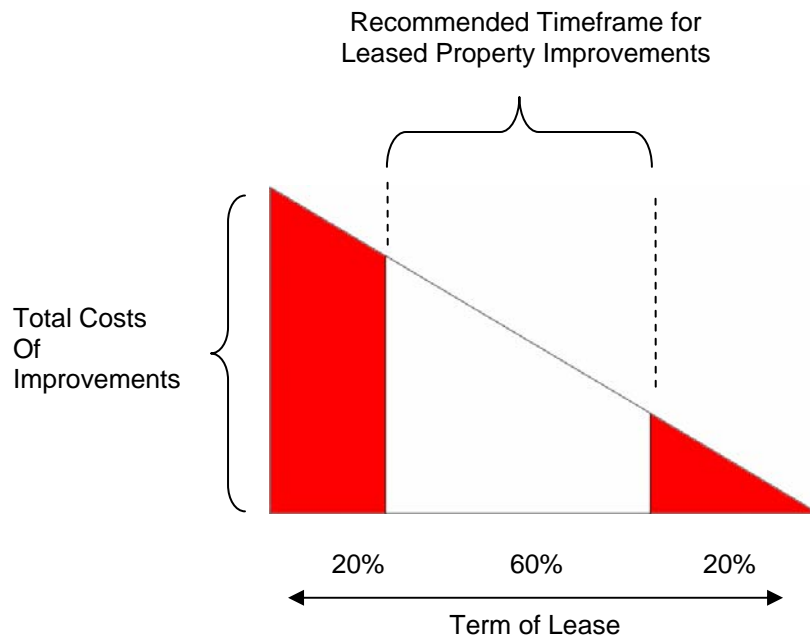
Key Concepts:

- The Agency is the primary negotiating party for all real estate improvements in this category.
- **The recommended lead time for real estate improvements in this category is dependent upon the needs of the state agency, complexity of the real estate improvement(s), local market conditions, and/or other factors.**
- Refer to the chart on page 6 for the Recommended Timeframe for Leased Property Improvements.
- The Agency may request the services of the DofA/DFM as a consultant or as a negotiator.
- For the purposes of this section, “Improvements” are defined as any alteration or modification of the leased space which could be considered as a fixture (permanently attached to the real property) and not considered as personal property. Some common examples include carpet/floor covering, window coverings, paint/wall paper, wall reconfigurations, doors and mechanical operators/locking mechanisms, etc. Please contact DofA/DFM or your agency’s legal counsel with questions regarding improvements to leased property.
- Even though the State of Kansas may desire the requested improvements and is willing to pay for these improvements (reimbursement to the landlord), the actual work should be under the control of the landlord as the owner of the property. For liability reasons, employees and/or contractors of the State of Kansas should not perform any work related to such improvements.

Procedure:

Submit the following to the DofA/DFM for approval:

1. DA-103 Agency Purchase Order
Located at: <http://www.da.ks.gov/ar/forms/da103.pdf> or
<http://www.da.ks.gov/ar/forms/da103.xls>
2. Copy of the bid and a letter explaining the proposed improvement(s).
3. The ADA Checklist (if applicable).
Located at: <http://www.da.ks.gov/fm/leasing/ADAChecklist.pdf>
4. DFM-L-214 Occupancy Expense Worksheet (if applicable).
Located at:
http://www.da.ks.gov/fm/dfm/forms/DFM-L-214_Occupancy_Expense_Worksheet.pdf



Guidelines

1. Leased property should NOT need improvements within the first 20% of the lease term.
2. Leased property should NOT be improved within the final 20% of the lease term.
3. The cost of improvements should NOT be greater than the residual value of the remaining lease commitment.
4. Consideration needs to be given to the percentage of time remaining of the lease commitment as well as a new lease.

IMPROVEMENTS \$5,000 and Higher

Key Concepts:

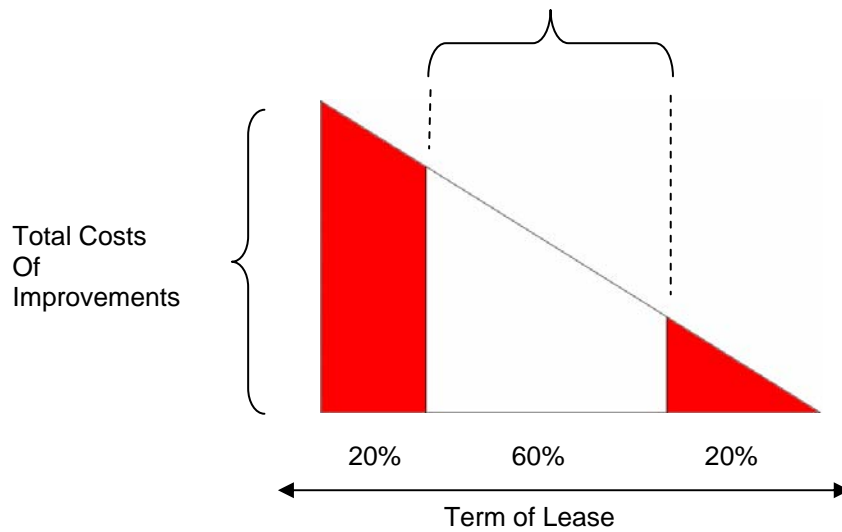
- The Agency is the primary negotiating party for all real estate improvements in this category.
- **A Lease Amendment is required for all real estate improvements in this category. The Amendment is not valid without the approval of the Secretary of Administration or designee.**
- **The recommended lead time for real estate improvements in this category is dependent upon the needs of the state agency, complexity of the real estate improvement(s), local market conditions, and/or other factors.**
- Refer to the chart on page 8 for the Recommended Timeframe for Leased Property Improvements.
- The Agency may request the services of the DofA/DFM as a consultant or as a negotiator.
- For the purposes of this section, “Improvements” are defined as any alteration or modification of the leased space which could be considered as a fixture (permanently attached to the real property) and not considered as personal property. Some common examples include carpet/floor covering, window coverings, paint/wall paper, wall reconfigurations, doors and mechanical operators/locking mechanisms, etc. Please contact DofA/DFM or your agency’s legal counsel with questions regarding improvements to leased property.
- Even though the State of Kansas may desire the requested improvements and is willing to pay for these improvements (reimbursement to the landlord), the actual work should be under the control of the landlord as the owner of the property. For liability reasons, employees and/or contractors of the State of Kansas should not perform any work related to such improvements.

Procedure:

Submit the following to the DofA/DFM for approval:

1. DA-47 Real Estate Lease Cover Sheet
Located at: <http://www.da.ks.gov/ar/forms/da047.pdf> or
<http://www.da.ks.gov/ar/forms/da047.xls>
2. Copy of bid and letter explaining proposed improvement(s).
3. Amendment to the DA-46 Real Estate Lease Agreement executed by Lessee and Lessor (1 original or more as required)
Located at: http://www.da.ks.gov/fm/dfm/forms/AMENDMENT_TO_LEASE.doc
(Requires approval by the Secretary of Administration and is subject to approval by the Joint Committee on State Building Construction.)

Recommended Timeframe for Leased Property Improvements



Guidelines

1. Leased property should NOT need improvements within the first 20% of the lease term.
2. Leased property should NOT be improved within the final 20% of the lease term.
3. The cost of improvements should NOT be greater than the residual value of the remaining lease commitment.
4. Consideration needs to be given to the percentage of time remaining of the lease commitment as well as a new lease.

OFFICE LEASES Less than 5,000 sq ft with Lease terms of 24 months or LESS

Key Concepts:

- The Agency is the primary negotiating party for all real estate leases in this category.
- **It is recommended the process for leases in this category commence at least six (6) to twelve (12) months prior to the lease expiration date (for current leases) or the anticipated lease beginning date (for new leases). However, this recommended lead time may vary depending upon the needs of the state agency, complexity of the lease, local market conditions, and/or other factors.**
- The Agency may request the services of DofA/DFM as a consultant or as a negotiator.
- **No real estate lease is valid without the approval of the Secretary of Administration or designee, who has final approval over all leases.**

Procedure:

1. Space Needs/Requirements – Agency develops and documents space needs and requirements. Agencies are expected to follow the State of Kansas Office Space Standards which can be found in **Appendix C**.
2. Agency submits Lease Notification form to DofA/DFM, defining the agency's need for leased space.
3. Review Site Alternatives – Agency shops the local market and documents rental costs within the market area (may use any, all, or any combination of the options below)
 - Advertise in the local newspaper – for assistance, please e-mail: Leasing.Section@da.ks.gov
 - Telephone contact with potential landlords
 - Visit potential sites in person
 - Utilize the services of a local real estate professional
 - Utilize assistance from the DofA/DFM
4. Document Site Comparisons – Agency documents the comparison of the alternative sites including how well each site meets the identified space needs (#1 above) and the occupancy costs of each site.
5. Site Selection/Negotiations – Agency negotiates with the landlord (or representative) of the selected site.
6. Upon completion of the negotiations, Agency and landlord sign original(s) as required of the completed State of Kansas DA-46 Real Estate Lease Agreement. All standard lease forms may be found on the DofA/DFM web site at: <http://www.da.ks.gov/fm/dfm/services/leasing.htm>

OFFICE LEASES Less than 5,000 sq ft with Lease terms of 24 months or LESS

7. Documents Maintained by State Agency – Agency maintains the documentation for steps #1 through #5 above in accordance with the State's record retention schedule which are subject to audit and Agency policies.
8. Submission requirements – Agency sends the following to DofA/DFM:
 - Lease Submission Checklist
Located at: <http://www.da.ks.gov/fm/dfm/services/leasing.htm>
 - DA-46 Real Estate Lease Agreement executed by Lessee and Lessor (1 original or more as required)
Located at:
<http://www.da.ks.gov/fm/dfm/forms/DA-46 Real Estate Lease Agreement.pdf>
 - DA-47 Real Estate Lease Cover Sheet (1 original)
Located at: <http://www.da.ks.gov/ar/forms/da047.pdf> or
<http://www.da.ks.gov/ar/forms/da047.xls>
 - ADA Checklist (1 copy if not already on file)
Located at: <http://www.da.ks.gov/fm/leasing/ADAChecklist.pdf>
 - DFM-L-214 Occupancy Expense Worksheet (1 copy)
Located at:
<http://www.da.ks.gov/fm/dfm/forms/DFM-L-214 Occupancy Expense Worksheet.pdf>
9. Lease Approval by Department of Administration; DFM will –
 - Seek approval of DofA Legal
 - Seek approval and signature of the DofA/DFM Director and/or Secretary of Administration
 - Submit appropriate documents to DofA/Accounts & Reports (A&R)
10. Division of Accounts & Reports will –
 - Encumber the funds
 - Send a copy of the lease back to DofA/DFM
 - Send the Agency the original lease agreement(s).
11. The Agency will then send documentation as required by the parties.

OFFICE LEASES Less than 5,000 sq ft with Lease terms LONGER than 24 months

(LEGISLATIVE REVIEW REQUIRED FROM JCSBC)

Key Concepts:

- All real estate leases in this category require review by the Joint Committee on State Building Construction (JCSBC). Due to the irregular meeting schedule of JCSBC, state agencies should allow for additional time for processing these leases. For an explanation of the JCSBC, see Appendix F.
- The Agency is the primary negotiating party for all real estate leases in this category.
- It is recommended the process for leases in this category commence at least six (6) to twelve (12) months prior to the lease expiration date (for current leases) or the anticipated lease beginning date (for new leases). However, this recommended lead time may vary depending upon the needs of the state agency, complexity of the lease, local market conditions, and/or other factors.
- The Agency may request the services of DofA/DFM as a consultant or as a negotiator.
- No real estate lease is valid without the approval of the Secretary of Administration or designee, who has final approval over all leases.

Procedure:

1. Space Needs/Requirements – Agency develops and documents space needs and requirements. Agencies are expected to follow the State of Kansas Office Space Standards which can be found in **Appendix C**.
2. Agency submits Lease Notification form to DofA/DFM, defining the agency's need for leased space.
3. Review Site Alternatives – Agency publicizes the need for space (as identified in Step #1) by advertising in the local newspaper (required). For assistance, please email: Leasing.Section@da.ks.gov
4. Other Review Site Alternatives (may use any, all, or any combination of the options below)
 - Telephone contact with potential landlords
 - Visit potential sites in person
 - Utilize the services of a local real estate professional
 - Utilize assistance from the DofA/DFM
5. Document Site Comparisons – Agency documents the comparison of the alternative sites including how well each site meets the identified space needs (#1 above) and the occupancy costs of each site.

OFFICE LEASES Less than 5,000 sq ft with Lease terms LONGER than 24 months

(LEGISLATIVE REVIEW REQUIRED FROM JCSBC)

6. Site Selection/Negotiations – Agency negotiates with the landlord (or representative) of the selected site.
7. Upon completion of the negotiations, Agency and landlord sign original(s) as required of the completed State of Kansas DA-46 Real Estate Lease Agreement. All standard lease forms may be found on the DofA/DFM web site at:
<http://www.da.ks.gov/fm/dfm/services/leasing.htm>
8. Documents Maintained by State Agency – Agency maintains the documentation for steps #1 through #6 above in accordance with the State's record retention schedule which are subject to audit and Agency policies.
9. Submission Requirements – Agency sends the following to the DofA/DFM:
 - Lease Submission Checklist
Located at: <http://www.da.ks.gov/fm/dfm/services/leasing.htm>
 - Documentation of the process the Agency has used to determine that the proposed lease is in the best interest of the state (#1 through #5 above with copy of newspaper ad and bid tab sheet).
 - DA-46 Real Estate Lease Agreement executed by Lessee and Lessor (1 original or more as required).
Located at:
<http://www.da.ks.gov/fm/dfm/forms/DA-46 Real Estate Lease Agreement.pdf>
 - DA-47 Real Estate Lease Cover Sheet (1 original)
Located at: <http://www.da.ks.gov/ar/forms/da047.pdf> or
<http://www.da.ks.gov/ar/forms/da047.xls>
 - ADA Checklist (1 copy if not already on file)
Located at: <http://www.da.ks.gov/fm/leasing/ADAChecklist.pdf>
 - DFM-L-214 Occupancy Expense Worksheet (1 copy)
Located at:
<http://www.da.ks.gov/fm/dfm/forms/DFM-L-214 Occupancy Expense Worksheet.pdf>
10. DofA Legal Review – DofA/DFM will submit proposed lease to DofA Legal for review and approval.
11. Joint Committee on State Building Construction – DofA/DFM will present the proposed lease to the JCSBC. The Agency will be notified by DofA/DFM of the meeting. An Agency representative should attend the meeting to answer any programmatic questions from the JCSBC.
12. Lease Approval by Department of Administration; DFM will –
 - Seek approval and signature of the DofA/DFM Director and Secretary of Administration.
 - Submit appropriate documents to the DofA/A&R.

OFFICE LEASES Less than 5,000 sq ft with Lease terms LONGER than 24 months

(LEGISLATIVE REVIEW REQUIRED FROM JCSBC)

13. Division of Accounts & Reports will –

- Encumber the funds
- Send a copy of the lease back to DofA/DFM
- Send the original lease agreement(s) back to the originating Agency.

14. The Agency will then send documentation as required by the parties.

OFFICE LEASES 5,000 sq ft or Greater but less than 10,000 sq ft with Lease terms of 24 months or LESS

Key Concepts:

- The Agency is the primary negotiating party for all real estate leases in this category.
- **It is recommended the process for leases in this category commence at least twelve (12) to eighteen (18) months prior to the lease expiration date (for current leases) or the anticipated lease beginning date (for new leases). However, this recommended lead time may vary depending upon the needs of the state agency, complexity of the lease, local market conditions, and/or other factors.**
- The Agency may request the services of the DofA/DFM as a consultant or as a negotiator.
- **No real estate lease is valid without the approval of the Secretary of Administration or designee, who has final approval over all leases.**

Procedure:

1. Space Needs/Requirements – Agency develops and documents space needs and requirements. Agencies are expected to follow the State of Kansas Office Space Standards which may be found in **Appendix C**.
2. Agency submits Lease Notification form to DofA/DFM, defining the agency's need for leased space.
3. Review Site Alternatives – Agency publicizes the need for space (as identified in Step #1) by advertising in the local newspaper (required). For assistance, please e-mail: Leasing.Section@da.ks.gov
4. Other Review Site Alternatives (may use any, all, or any combination of the options below)
 - Telephone contact with potential landlords
 - Visit potential sites in person
 - Utilize the services of a local real estate professional
 - Utilize assistance from the DofA/DFM
5. Document Site Comparisons – Agency documents the comparison of the alternative sites including how well each site meets the identified space needs (#1 above) and the occupancy costs of each site.
6. Site Selection/Negotiations – Agency negotiates with the landlord (or representative) of the selected site.

OFFICE LEASES 5,000 sq ft or Greater but less than 10,000 sq ft with Lease terms of 24 months or LESS

7. Upon completion of the negotiations, Agency and landlord sign original(s) as required of the completed State of Kansas DA-46 Real Estate Lease Agreement. All standard lease forms may be found on the DofA/DFM web site at:
<http://www.da.ks.gov/fm/dfm/services/leasing.htm>
8. Documents Maintained by State Agency – Agency maintains the documentation for steps #1 through #6 above in accordance with the State's record retention schedule which are subject to audit and Agency policies.
9. Submission requirements – Agency sends the following to the DofA/DFM:
 - Lease Submission Checklist
Located at: <http://www.da.ks.gov/fm/dfm/services/leasing.htm>
 - Documentation of the process the Agency has used to determine that the proposed lease is in the best interest of the state (#1 through #5 above with copy of newspaper ad and bid tab sheet).
 - DA-46 Real Estate Lease Agreement executed by Lessee and Lessor (1 original or more as required).
Located at: http://www.da.ks.gov/fm/dfm/forms/DA-46_Real_Estate_Lease_Agreement.pdf
 - DA-47 Real Estate Lease Cover Sheet (1 original)
Located at: <http://www.da.ks.gov/ar/forms/da047.pdf> or
<http://www.da.ks.gov/ar/forms/da047.xls>
 - ADA Checklist (1 copy if not already on file)
Located at: <http://www.da.ks.gov/fm/leasing/ADAChecklist.pdf>
 - DFM-L-214 Occupancy Expense Worksheet (1 copy)
Located at: http://www.da.ks.gov/fm/dfm/forms/DFM-L-214_Occupancy_Expense_Worksheet.pdf
10. Lease Approval by Department of Administration; DFM will –
 - Seek approval from DofA Legal
 - Seek approval and signature of the DofA/DFM Director and/or Secretary of Administration
 - Submit appropriate documents to the DofA/A&R.
11. Division of Accounts & Reports will –
 - Encumber the funds
 - Send a copy of the lease back to DofA/DFM
 - Send the original lease agreement(s) back to the originating Agency.
12. The Agency will then send documentation as required by the parties.

OFFICE LEASES 5,000 sq ft or Greater but less than 10,000 sq ft with Lease terms LONGER than 24 months

(LEGISLATIVE REVIEW REQUIRED FROM JCSBC)

Key Concepts:

- All real estate leases in this category require review by the Joint Committee on State Building Construction (JCSBC). Due to the irregular meeting schedule of JCSBC, state agencies should allow for additional time for processing these leases. For an explanation of the JCSBC, see Appendix F.
- The Agency is the primary negotiating party for all real estate leases in this category.
- It is recommended the process for leases in this category commence at least twelve (12) to eighteen (18) months prior to the lease expiration date (for current leases) or the anticipated lease beginning date (for new leases). However, this recommended lead time may vary depending upon the needs of the state agency, complexity of the lease, local market conditions, and/or other factors.
- The Agency may request the services of DofA/DFM as a consultant or as a negotiator.
- No real estate lease is valid without the approval of the Secretary of Administration or designee, who has final approval over all leases.

Procedure:

1. Space Needs/Requirements – Agency develops and documents space needs and requirements. Agencies are expected to follow the State of Kansas Office Space Standards which may be found in **Appendix C**.
2. Agency submits Lease Notification form to DofA/DFM, defining the agency's need for leased space.
3. Review Site Alternatives – Agency publicizes the need for space (as identified in Step #1) by advertising in the local newspaper (required). For assistance, please e-mail: Leasing.Section@da.ks.gov
4. Other Review Site Alternatives (may use any, all, or any combination of the options below)
 - Telephone contact with potential landlords
 - Visit potential sites in person
 - Utilize the services of a local real estate professional
 - Utilize assistance from the DofA/DFM

OFFICE LEASES 5,000 sq ft or Greater but less than 10,000 sq ft with Lease terms LONGER than 24 months

(LEGISLATIVE REVIEW REQUIRED FROM JCSBC)

5. Document Site Comparisons – Agency documents the comparison of the alternative sites including how well each site meets the identified space needs (#1 above) and the occupancy costs of each site.
6. Site Selection/Negotiations – Agency negotiates with the landlord (or representative) of the selected site.
7. Upon completion of the negotiations, Agency and landlord sign original(s) as required of the completed State of Kansas DA-46 Real Estate Lease Agreement. All standard lease forms may be found on the DofA/DFM web site at:
<http://www.da.ks.gov/fm/dfm/services/leasing.htm>
8. Documents Maintained by State Agency – Agency maintains the documentation for steps #1 through #6 above in accordance with the State's record retention schedule which are subject to audit and Agency policies.
9. Submission Requirements – Agency sends the following to the DofA/DFM:
 - Lease Submission Checklist
Located at: <http://www.da.ks.gov/fm/dfm/services/leasing.htm>
 - Documentation of the process the Agency has used to determine that the proposed lease is in the best interest of the state (#1 through #5 above with copy of newspaper ad and bid tab sheet).
 - DA-46 Real Estate Lease Agreement executed by Lessee and Lessor (1 original or more as required).
Located at:
<http://www.da.ks.gov/fm/dfm/forms/DA-46 Real Estate Lease Agreement.pdf>
 - DA-47 Real Estate Lease Cover Sheet (1 original)
Located at: <http://www.da.ks.gov/ar/forms/da047.pdf> or
<http://www.da.ks.gov/ar/forms/da047.xls>
 - ADA Checklist (1 copy if not already on file)
Located at: <http://www.da.ks.gov/fm/leasing/ADAChecklist.pdf>
 - DFM-L-214 Occupancy Expense Worksheet (1 copy)
Located at:
<http://www.da.ks.gov/fm/dfm/forms/DFM-L-214 Occupancy Expense Worksheet.pdf>
10. DofA Legal Review – DofA/DFM will submit proposed lease to DofA Legal for review and approval.
11. Joint Committee on State Building Construction – DofA/DFM will present the proposed lease to the JCSBC. The Agency will be notified by DofA/DFM of the meeting. An Agency representative should attend the meeting to answer any programmatic questions from the JCSBC.

OFFICE LEASES 5,000 sq ft or Greater but less than 10,000 sq ft with Lease terms LONGER than 24 months

(LEGISLATIVE REVIEW REQUIRED FROM JCSBC)

12. Lease Approval by Department of Administration; DFM will –

- Seek approval and signature of the DofA/DFM Director and Secretary of Administration.
- Submit appropriate documents to the DofA/A&R.

13. Division of Accounts & Reports will –

- Encumber the funds
- Send a copy of the lease back to DofA/DFM
- Send the original lease agreement(s) back to the originating Agency.

14. The Agency will then send documentation as required by the parties.

OFFICE LEASES 10,000 sq ft or Greater

(LEGISLATIVE REVIEW REQUIRED FROM JCSBC)

Key Concepts:

- Formal Request For Proposals (RFP) process required for all real estate leases in this category.
- Process managed by the Division of Purchases (Purchases).
- **The average lead time for the RFP process is eighteen (18) to twenty-four (24) months prior to the lease expiration date (for current leases) or the anticipated lease beginning date (for new leases). However, this recommended lead time may vary depending upon the needs of the state agency, complexity of the lease, local market conditions, complexity of the RFP, and /or other factors.**
- The Procurement Negotiating Committee (PNC) is the negotiating party for all real estate leases in this category.
- **All real estate leases in this category require review by the Joint Committee on State Building Construction (JCSBC). Due to the irregular meeting schedule of JCSBC, state agencies should allow for additional time for processing these leases. For an explanation of the JCSBC, see Appendix F.**
- **No real estate lease is valid without the approval of the Secretary of Administration or designee, who has final approval over all leases.**

Procedure:

1. Two (2) years prior to lease expiration, the Agency develops and documents space needs and requirements for this lease location. Agencies are expected to follow the State of Kansas Office Space Standards which may be found in **Appendix C**.
2. Agency submits Lease Notification form to DofA/DFM, which can be located at <http://www.da.ks.gov/fm/dfm/services/leasing.htm>, defining the agency's need for leased space.
3. DofA/DFM sends notice to Agency inviting the Agency Representative(s) to a LSST meeting to address the Agency's requirements at this location.
4. LSST reviews/recommends the RFP process or reviews/recommends new potential direction.
5. If LSST concurs with RFP process, LSST recommends appointment of PNC member to Director of Purchases. Agency sends letter to Director of Purchases requesting PNC.
 - Best case (normal) RFP process takes 18 months in advance of current lease expiration to complete.
 - Additional time may be needed depending on complexity of RFP.

OFFICE LEASES OVER 10,000 sq ft or Greater

(LEGISLATIVE REVIEW REQUIRED FROM JCSBC)

6. If LSST recommends new potential direction, LSST sends recommendation to Secretary of Administration. RFP process will be on hold pending decision by the Secretary of Administration.
7. Director of Purchases seeks establishment of PNC from the Secretary of Administration.
8. Division of Purchases administers the RFP process with the PNC.
9. PNC and Division of Purchases develops RFP document including agency specific requirements (Step #1 above).
10. Notice of RFP Solicitation is published in Kansas Register and in local newspaper (required), direct mailed to potential bidders and posted on Division of Purchases web site: <http://www.da.ks.gov/purch/rfq/>
11. A pre-proposal conference may be held at the discretion of the PNC.
12. Document Site Comparisons – PNC documents the comparison of the proposed alternative sites including how well each site meets the identified space needs (#1 above) and the occupancy costs of each site.
13. Site Selection/Negotiations – PNC identifies potential sites and enters into negotiations with vendors.
14. Upon completion of the negotiations, PNC recommends an award and finalizes details to be contained in the lease document. Agency and landlord sign two (2) originals of the completed State of Kansas DA-46 Real Estate Lease Agreement (DA-46). This form and all leasing related forms may be found on the DofA/DFM web site at: <http://www.da.ks.gov/fm/dfm/services/leasing.htm>
15. Documents Maintained – Division of Purchases shall maintain the documentation for Steps #2 through #14 above which are subject to audit.
16. Submission Requirements – Agency sends the following to the DofA/DFM:
 - Lease Submission Checklist
Located at: <http://www.da.ks.gov/fm/dfm/services/leasing.htm>
 - Documentation of the process the Agency has used to determine that the proposed lease is in the best interest of the state (#1 through #5 above with copy of newspaper ad and bid tab sheet).
 - DA-46 Real Estate Lease Agreement executed by Lessee and Lessor (1 original or more as required).
Located at: <http://www.da.ks.gov/fm/dfm/forms/DA-46 Real Estate Lease Agreement.pdf>

OFFICE LEASES 10,000 sq ft or Greater

(LEGISLATIVE REVIEW REQUIRED FROM JCSBC)

- DA-47 Real Estate Lease Cover Sheet (1 original)
Located at: <http://www.da.ks.gov/ar/forms/da047.pdf> or
<http://www.da.ks.gov/ar/forms/da047.xls>
- ADA Checklist (1 copy if not already on file)
Located at: <http://www.da.ks.gov/fm/leasing/ADAChecklist.pdf>
- DFM-L-214 Occupancy Expense Worksheet (1 copy)
Located at:
http://www.da.ks.gov/fm/dfm/forms/DFM-L-214_Occupancy_Expense_Worksheet.pdf

17. DofA Legal Review – DofA/DFM will submit proposed lease to DofA Legal for review and approval.

18. Joint Committee on State Building Construction – DofA/DFM will present the proposed lease to the JCSBC. The Agency will be notified by DofA/DFM of the meeting. An Agency representative should attend the meeting to answer any programmatic questions from the JCSBC.

19. Lease Approval by Department of Administration; DFM will –

- Seek approval and signature of the DofA/DFM Director and/or Secretary of Administration
- Submit appropriate documents to the DofA/A&R.

20. Division of Accounts & Reports will –

- Encumber the funds
- Send a copy of the lease back to DofA/DFM
- Send the original lease agreement(s) back to the originating Agency.

21. The Agency will then send documentation as required by the parties.

- A copy of the signed lease should be sent to the Division of Purchases for the bid file.

APPENDIX A

Lease Process Flow Chart

Lease Process Flow Chart – <http://www.da.ks.gov/fm/dfm/services/leasing.htm>

APPENDIX B

Forms

Lease Notification Form – <http://www.da.ks.gov/fm/dfm/services/leasing.htm>

Lease Submission Checklist – <http://www.da.ks.gov/fm/dfm/services/leasing.htm>

DA-47 Real Estate Lease Cover Sheet – <http://www.da.ks.gov/ar/forms/da047.pdf> or
<http://www.da.ks.gov/ar/forms/da047.xls>

DFM-L-214 Occupancy Expense Worksheet –
http://www.da.ks.gov/fm/dfm/forms/DFM-L-214_Occupancy_Expense_Worksheet.pdf

DA-46 Real Estate Lease Agreement –
http://www.da.ks.gov/fm/dfm/forms/DA-46_Real_Estate_Lease_Agreement.pdf

DA-46 Amendment to Lease –
http://www.da.ks.gov/fm/dfm/forms/AMENDMENT_TO_LEASE.doc

ADA Checklist – <http://www.da.ks.gov/fm/leasing/ADAChecklist.pdf>

ADA Waiver – http://www.da.ks.gov/fm/dfm/forms/WAIVER_TO_ACCESS_CLAUSE.doc

APPENDIX C

Office Space Standards

Office Space Standards - <http://www.da.ks.gov/fm/dfm/services/leasing.htm>

APPENDIX D

Training Tips and Frequently Asked Questions

1. **Q. My agency wants to do some remodeling and decorating to our leased office space. How do we go about improving our space?**
 - A. You should check your lease, Section Five (5), REPAIR OF PREMISES, third paragraph, of the DA-46, and identify which party pays for remodeling/decoration. Identify and evaluate what improvements are desired. Talk with your landlord and get cost estimates. Make sure you have the funds to do the work. Expenses under \$5,000.00 require a submittal to DFM on the agency purchase order, a copy of the invoice and a letter explaining the purchase. If expenses are over \$5,000.00, an Amendment to the Lease Agreement, accompanied by the invoice and a letter explaining the purchase will be necessary prior to the commencement of the work. Expenses over \$5,000.00 also require Secretary of Administration approval and may require JCSBC approval prior to the work being performed. Check for any restrictions or requirements that may have been specified at the time the lease was implemented. The State of Kansas prefers the landlord to contract for the work on his building, with the agency reimbursing him for the work. For guidance and timing of improvements, please refer to sections 4 and 6 before beginning any work.
2. **Q. My prospective landlord has let me know that he doesn't like Section Nine (9), Termination for Fiscal Necessity of the DA-46. He is concerned that he won't get his rent money. How can I answer his questions regarding this section?**
 - A. Of all the paragraphs in our lease, TERMINATION FOR FISCAL NECESSITY, Section Nine (9) in the DA-46 causes more issues with landlords than any other. Many times, during the lease negotiation process, this paragraph will be crossed out by future landlords. If this occurs, the State usually won't sign the Lease Agreement. However, if this paragraph is crossed out, and the agency still desires to lease space from the landlord, then the lease should be for only one (1) year. Explain to the landlord that in order for an agency to exercise this section of the Lease Agreement, an agency has to undergo a material alteration of the program under which funds for the lease were provided, or if the legislature fails to appropriate funds for the lease.
 - Legally, a document is not a contract until the last signature has been obtained.
 - Seek legal advice. Consult your department attorney if you have legal questions.
3. **Q. I'm having trouble getting my landlord to clear our sidewalks and parking lot when it snows. Any ideas on how I can get this service accomplished?**
 - A. Section Six, (6), ADDITIONAL SERVICES in the Lease Agreement, DA-46, gives you an opportunity when you are negotiating the lease, to determine who provides certain services. Some of these services have been listed for you, however, if there are other services you would like to call attention too, you may create a SPECIAL PROVISION Nine (9) to itemize services you wish to address with the landlord. These can be attached to the Lease Agreement on a separate sheet, but make sure that you and the landlord both sign the sheet outlining the special provision(s), acknowledging who will provide the services and under what conditions.
 - Define how much snowfall (2" is common) before removal is necessary.

- Define how much snowfall before hauling snow off the parking lot is necessary.
- Other items to consider for negotiation would include:
 - Light bulb replacement
 - Landscaping
 - Custodial – who provides this service, the levels and areas
 - Parking – how many spaces will be provided for customers and staff. Will parking be off street, assigned, etc.?

4. Q. Are there any guidelines for how long a lease should be?

- A. The primary consideration for the term of a lease should be the length of the need for the space by the state agency. Often, the source and timing of funding will drive the length of the lease term. There are many options when negotiating a lease and determining its term. State agencies can gain flexibility through the use of renewal options and early termination clauses that add or subtract time from the initial lease period. However, flexibility usually comes at a price. As a general rule of thumb, the longer the lease term, the lower the lease rate and the shorter the lease term, the higher the lease rate.
- Check the Leasing Handbook for procedures required for the specific size and length of lease being negotiated.

5. Q. Several new positions have been added to my agency and we are out-growing our current space. The lease doesn't end until next year and there isn't any more space available in my building. Can I terminate my lease with the current landlord?

- A. Check your Lease Agreement, Special Provision One (1). If it is checked, then verify the number of days notice you must give your landlord. Keep in mind that there are procedures you must follow when beginning a search for new space which may take a considerable amount of time. Carefully coordinate your search, your letter of termination and your move. The Leasing Handbook should also be referenced as a guide on how to proceed when searching for new space.

6. Q. The roof in my leased office space is leaking. Who is responsible for the repairs?

- A. The landlord is responsible for maintaining in good repair, the exterior walls, windows, roof, structural floors and elevators of the building. If the interior, contents, or fixtures of the leased premises are damaged as a result of failure of the roof, plumbing or other utilities or items under the control of the First Party, the landlord is responsible for paying the costs to repair or replace the contents or fixtures and to make resulting repairs to the interior.

7. **Q. Doesn't the landlord replace the worn out carpet in our office?**
- A. Carpet replacement should be negotiated at the time the lease is being negotiated. If the lease is for an extended period of time, perhaps replacement could be scheduled at the halfway point of the lease.
- Carpet replacement – define reasonable wear and tear
 - Negotiate scheduled carpet replacement at time of lease negotiation
 - Other items to consider for negotiation would include:
 - Snow removal
 - Light bulb replacement
 - Landscaping
 - Custodial – who provides this service, the levels and areas
 - Parking – how many spaces will be provided for customers and staff. Will parking be off street, assigned, etc.?
8. **Q. My agency's lease expires soon. Do I have to advertise for office space even though we want to stay in the same space?**
- A. Yes. Depending on the size of your agency's office space, there are procedures outlined for you to follow in the Leasing Handbook. Make sure your current landlord responds to the advertisement for space and is aware of any deadlines that if missed, might eliminate him from being considered.
9. **Q. The office space my agency wants to rent meets all our requirements but is not ADA compliant. We don't have any disabled employees. Can we rent this space anyway?**
- A. Leased office space in the State of Kansas must meet ADA guidelines. Is it possible that the landlord would make necessary repairs to the space to bring it into compliance before your agency moves into the space? This should be negotiated during the negotiation process of the Lease Agreement. In the Leasing Handbook, refer to the ADA Checklist to make sure your prospective office space meets the ADA requirements.
- Leased space MUST meet ADA requirements. Please refer to the ADA checklist.
10. **Q. My agency is considering a move into new office space. The location we would like to lease is really larger than necessary but it would be nice to have the extra space. Aren't there Space Standards that agencies are supposed to use when designing new office space?**
- A. Space Standards were developed in 2003 and provide agencies with guidelines that agencies are expected to follow. On average, office space is between 210 to 250 usable square feet, (which takes into account the office area, divided by the number of employees) which includes hallways, restrooms, break rooms, conference rooms, etc. Variations for type of work performed will be considered on an individual basis and could alter the square foot size of an office. For a more in-depth explanation, please refer to the Leasing Handbook – Office Space Standards.
- For assistance regarding any questions, concerns or issues when negotiating a lease, please contact DofA/DFM at: Leasing.Section@da.ks.gov

APPENDIX E

Kansas Statutes

The complete Kansas Statute may be found at:

<http://www.kslegislature.org/legsrv-statutes/getStatuteInfo.do>

K.S.A. 75-3651 – Powers of secretary of administration; office space for state agencies; modify, equip, lease and assign certain space; annual report to joint committee on state building construction.

K.S.A. 75-3739 – Competitive bids, exceptions; bidding procedures; reports of purchases without bids, waivers of bid solicitation publication and delegations of purchasing authority; highway contracts exemption; state agency contracts exemption; prior approval of real property leases.

K.S.A. 75-37,102 – Procurement negotiating committees, services or technical products; composition; powers; notice and procedures; bidding and open meeting exemptions; reports to legislative coordinating council and committees.

K.S.A. 75-3765 – Assignment of certain space and facilities for state agencies; rental charges; building space utilization plans; database of state agency building and storage space; annual reports to joint committee on state building construction.

K.S.A. 75-3765b – Office space for state agencies in nonstate-owned building and facilities; powers of secretary of administration; lease negotiation service fees.

APPENDIX F

Glossary of Terms

Acknowledgment – a formal declaration before a duly authorized person, such as a notary public, to the effect that the person executing the instrument is performing his free act and deed and that the signature is genuine.

Affidavit – a written declaration made under oath before an official, as a notary public.

Amendment to Lease – a supplement, revision, or addition to a lease.

Amenity – a feature that increases the attractiveness or value of a piece of property.

Americans with Disabilities Act (ADA) – laws prohibiting discrimination against persons with disabilities.

Appurtenance – a right, privilege, or property considered incidental to the principal property for purposes such as passage of title, conveyance, or inheritance.

Assignment – a transfer of a claim, right, or interest in property.

Covenants – binding clauses in a lease which define rights and obligations of lessor and lessee.

Deed – A legal document conveying title to real estate.

Discount Rate – an annual percentage which represents the required return on the capital invested in a depreciating asset, such as a building.

Early Termination – the right to terminate a lease earlier than otherwise allowed.

Energy Performance Index – a measure describing the energy consumption of a facility expressed in BTU's per square foot per year.

Escalation Clause – a clause in an agreement providing for adjustment of a price, rent, or interest rate.

Exculpatory Clause – a mortgage clause relieving the borrower(s) of personal liability to repay a loan.

Existing Facility – to be considered existing, the proposed space must be enclosed with a roof system and exterior walls in place.

Extension – an agreement by which a lease is made effective on specified terms for an additional period of time.

FTE – full-time employee.

Gross Area – the sum of the floor areas included within the outside faces of exterior walls for all stories, or areas, which have floor surfaces.

Hoteling – equipped office space available on a reservation basis for use by multiple employees, who are not in the office on a daily basis.

Interstitial Space – that portion of the gross area which cannot be put to use because of the presence of structural or service features of the building.

Joint Committee on State Building Construction (JCSBC) – a joint committee of the Kansas Legislature which is composed of five members of the senate and five members of the house of representatives. Per K.S.A. 75-3765b, leases that are greater than 10,000 square feet or longer in duration than 24 months must be reviewed by this committee.

Lease – a legal contract between the lessee and lessor providing for the possessions and use of a specified property or square footage.

Lease Term – the specified duration of the lease.

Leasing Shared Services Team (LSST) – a group of volunteer leasing professionals from various state agencies working with the Department of Administration to identify and facilitate improvements to the function of real estate leasing with the objectives to create operation efficiencies, identify potential cost savings, and improve service delivery for state agencies.

Lessee – a tenant under a lease.

Lessor – owner of record or duly authorized representative of real property who has the power and authority to make a lease.

Lien – a legal hold or claim which a person or entity has upon the property of another as security for some debt or charge.

Mechanical Area – a portion of a building designed to house mechanical or electrical equipment.

Modifications – changes to the standard lease agreement that change the terms of the original lease.

Net Assignable Area – the sum of all areas on all floors of a building assigned to, or available for assignment to, an occupant, including every type of space functionally usable by an occupant.

Office Space Standards – to maximize the value of the state's assets and reduce expenses where possible. To ensure the number of people per square foot on a floor or in a building is reasonable and to ensure the best use of that space with reasonable and consistent office size standards. Adopted by the Governor and Cabinet on April 16, 2003.

Physical Deterioration – depreciation of property due to wear and tear and the action of the elements.

Premises – property which is leased, i.e., a building or any part thereof.

Procurement Negotiating Committee (PNC) – negotiating committee authorized under K.S.A. 75-37, 102 to negotiate for the procuring state agency contracts with qualified parties to provide services or technical products needed by the state agency.

Radon Gas – a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present a health risk to persons exposed to it over a period of time.

Receiver – a person or entity appointed by the court to manage a property being foreclosed.

Recommended Order – the official recommendation of a hearing officer of the Department of Administration.

Renewal Option – a lease covenant giving the lessee the right to extend the lease for an additional period of time on specified terms.

Request For Proposal (RFP) – the method of competitive solicitation utilized by the state in seeking space to lease.

Subordination – a lender permitting a debt due him to be subordinated or interior to the debt of another lender on the same property.

Subordination Clause – a mortgage clause indicating the lender's interest in the property has a lower priority than that of another lien holder.

Subrogation – the substitution of one party for another in a claim, lien or cause of action against others.

Term – the specified duration of the lease.